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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,905	05/11/2007	Romuald Dez	BDL-504XX	3591
207 7590 01/16/2009 WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI LLP			EXAMINER	
TEN POST OFFICE SQUARE BOSTON, MA 02109		GROUP, KARL E		
			ART UNIT	PAPER NUMBER
			1793	
			MAIL DATE	DELIVERY MODE
			01/16/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)				
Office Action Comments	10/587,905	DEZ ET AL.				
Office Action Summary	Examiner	Art Unit				
	Karl E. Group	1793				
The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with the c	orrespondence ad	ldress			
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING DA  - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication.  - If NO period for reply is specified above, the maximum statutory period w  - Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 16(a). In no event, however, may a reply be tim 11 apply and will expire SIX (6) MONTHS from 12 cause the application to become ABANDONEI	I.  lely filed  the mailing date of this of  (35 U.S.C. § 133).				
Status						
1) Responsive to communication(s) filed on						
3) Since this application is in condition for allowan	<del>_</del>					
closed in accordance with the practice under E	x parte Quayle, 1935 C.D. 11, 45	3 O.G. 213.				
Disposition of Claims						
<ul> <li>4) Claim(s) 1-17 is/are pending in the application.</li> <li>4a) Of the above claim(s) is/are withdrawn from consideration.</li> <li>5) Claim(s) is/are allowed.</li> <li>6) Claim(s) is/are rejected.</li> <li>7) Claim(s) is/are objected to.</li> </ul>						
8)⊠ Claim(s) <u>1-17</u> are subject to restriction and/or e	lection requirement.					
Application Papers						
9) The specification is objected to by the Examiner  10) The drawing(s) filed on is/are: a) access Applicant may not request that any objection to the of Replacement drawing sheet(s) including the correction of the original origina	epted or b) $\square$ objected to by the Edrawing(s) be held in abeyance. See on is required if the drawing(s) is obj	e 37 CFR 1.85(a). ected to. See 37 CF				
Priority under 35 U.S.C. § 119						
12) Acknowledgment is made of a claim for foreign a) All b) Some * c) None of:  1. Certified copies of the priority documents 2. Certified copies of the priority documents 3. Copies of the certified copies of the priori application from the International Bureau * See the attached detailed Office action for a list of	s have been received. s have been received in Application ity documents have been received (PCT Rule 17.2(a)).	on No ed in this National	Stage			
Attachment(s)  1) Notice of References Cited (PTO-892)  2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  3) Information Disclosure Statement(s) (PTO/SB/08)  Paper No(s)/Mail Date	4) Interview Summary Paper No(s)/Mail Da 5) Notice of Informal P 6) Other:	nte				

Application/Control Number: 10/587,905 Page 2

Art Unit: 1793

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-6, drawn to a method of synthesizing a nanopowder.

Group II, claim(s) 7, drawn to a method of fabricating a composite.

Group III, claim(s) 8-12,16, drawn to a nanopowder.

Group IV, claim(s) 14,15, drawn to a composite.

**Note:** Claims 13 and 17 are directed to a nonstatutory class and therefor were not included in one of the above groups. Use claims are not a statutory class.

- 2. The inventions listed as Groups I,II,III,IV do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: The process of manufacturing the nanopowder does not produce a powder requiring the claimed carbon and oxygen content and therefore do not share the same technical feature. The composite claim 14,15 does not require a nanostructure and the claimed oxygen or carbon contents. The process of manufacture of claim 7 does not produce the claimed nanopowder and therefor does not share the same technical feature.
- 3. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does

Art Unit: 1793

not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

- 4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).
- 5. The examiner has required restriction between product and process claims.

  Where applicant elects claims directed to the product, and the product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder.

  All claims directed to a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103 and 112. Until all claims to the elected product are found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained. Withdrawn process claims that are not commensurate in scope with an allowable product claim will not be rejoined. See MPEP § 821.04(b). Additionally, in order to retain the right to rejoinder in accordance with the

Application/Control Number: 10/587,905 Page 4

Art Unit: 1793

above policy, applicant is advised that the process claims should be amended during prosecution to require the limitations of the product claims. **Failure to do so may result in a loss of the right to rejoinder**. Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karl E. Group whose telephone number is 571-272-1368. The examiner can normally be reached on M-F (6:30-4:00) First Friday Off. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on 571-272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Karl E Group/ Primary Examiner Art Unit 1793

Keg 1-15-08